

# State Lays Its Foundation for Evidence in Rebuttal

## VICTIM OF TURNPIKE MURDER AND HER HUSBAND'S RELATIVES

you over the phone what she had put down from day to day?"

"I think I glanced through the book myself."

Mr. Wendenburg offered the diary in evidence, and it was closely scrutinized by Messrs. Smith and Carter. After waiting a reasonable time, Judge Watson remarked:

"Gentlemen, have you read the preface to that book?"

"We have read far into its contents," replied Mr. Smith, "and we have utterly failed to see how it could be offered in evidence."

"I will lay a foundation for it," replied Mr. Wendenburg, resuming his questioning.

**Never in Love With Her.**

"Were you ever in love with Beulah Binford?"

"I have never loved her."

"Was she in love with you?"

"I couldn't say. She may have told me so. I didn't pay any attention to anything like that."

"This was a daily diary kept by her between you two, was it not?"

"I had nothing to do with it."

"I protest against any reference to the diary until the court rules whether it is evidence," said Mr. Smith.

"It was kept by her in reference to her feelings to you?" asked Mr. Wendenburg.

"I don't know that it was."

"What was her purpose in showing you this diary?"

"I didn't know."

"Didn't it give an expression of her feelings to you?"

"I didn't pay any attention to it."

"Wasn't that diary kept for the purpose of writing you a note every day?"

"I never received it if it was."

"Didn't she write something to that effect on the first page of the diary?"

"If it was, I don't remember."

"You have seen this diary?"

"Yes."

"It gave an expression to her feelings toward you?"

"Yes."

**Diary Not in Evidence.**

"The diary, if offered in evidence, should come in by the sworn testimony of Beulah Binford," ruled Judge Watson.

"He is not bound by what is said in there," protested Mr. Wendenburg.

"I contend that the witness read this book, knew its contents, and by it I want to prove that he knew of Beulah Binford's affection for him."

"I do not think the book is testimony at this stage," said Judge Watson.

"When did you read this diary?"

"I never read it; I merely glanced at it."

"There are some entries there since Beulah has been in jail," commented Mr. Smith. "It is obvious that the prisoner could not have read all of the entries."

"Since you have made that statement," replied Mr. Wendenburg, "I will tell you and the court that the diary stops on the night of the murder."

After argument on the admissibility of the diary as evidence, Judge Watson instructed the jury to disregard the book "from this to this."

"I told her she used to tell you she loved you," said Mr. Wendenburg.

"Yes, she may have."

"What was her pet name for you when she addressed you?"

"She called me Henry."

"Wasn't it her darling Henry, or 'Darling Baby'?"

"In personal conversation, no, sir."

"Did you on June 15, shortly after the return of Beulah Binford to Richmond—do you remember her going out with some one named 'P'?"

"The court has ruled that diary out again and again," said Mr. Carter, in protest.

**Jealous Theory Advanced.**

"It doesn't matter what prompted the question," said Judge Watson. "It may have been prompted by entries in the diary, but the contents of the book as such are eliminated."

The question was repeated: "Did you see Beulah go out with a man named 'P' about June 14 to 15? Didn't you get after her about having been out with a certain man?"

"I don't remember."

"It could have occurred, and you have forgotten it?"

"Yes."

Mr. Wendenburg called for the letter hitherto offered in evidence in which Henry enclosed \$10 to Beulah for payment on furniture for a flat. He scored his point at last in regard to the envelope after many trials. Mr. Carter had heretofore prevented the recognition of the envelope in evidence, and had evidently paving the way to the claim that it was an old one, having nothing to do with recent relations between Henry and Beulah.

Henry's admissions put the claim at rest.

"Both the letter and the envelope are in your handwriting?" asked Mr. Wendenburg.

"Yes."

"Does the envelope help you to fix the date you sent the letter to Beulah?"

"Yes, it is postmarked on July 14, 1911."

"You sent it on that date?"

"Yes."

The envelope and letter were then offered in evidence together and read to the jury. Henry explained that there was one error in the reading. He had closed with the customary salutation, "Well, my dear," which had been read as "promised on his part. Will be good." Henry said he made Beulah no such promise.

**Money for Furniture.**

"Didn't you, in Dr. Lovings' yard on the Thursday afternoon following the homicide, deny that you had sent Beulah money for furniture? Do you deny that?"

"I don't think they asked me. I was asked a question of that sort at the inquest."

"You cannot testify as to what was said on the stand at the inquest," said Judge Watson.

"Didn't Mr. Scherer ask you in the presence of Detectives Wren and Wiltshire and Coroner Loving whether or not you were furnishing money to buy furniture for Beulah Binford's flat?"

"I don't deny that you had written her a letter within the past ten days."

"I don't think they asked me. I told them everything I knew."

"Didn't Mr. Scherer ask you whether she had not been to a store to select furniture for a flat?"

"I don't think he did. I knew she was to move into the flat, and I was going to aid her. Others contributed to it besides myself."

"Can you give me the names of any others?"

"No, sir. I don't know who she ran with. Her mother and sister and brother-in-law were going to help."

"Were you interested in her purchase of furniture on instalments?"

"No, sir."

"You were not interested in an itemized bill?"

"I told her I would help her, but I didn't want her to tell me the bill was more than it really was. She

**FRED BEATTIE.**

might have said the furniture cost \$500."

Mr. Wendenburg read from the letter: "Pay this ten on the furniture and make him give you an itemized bill and what you must pay each week. Why were you interested in what she was to pay each week?"

"I had told her I would help her with it."

"Irma is Mrs. Cobb."

"Don't let Irma call me up any more—somebody will get wise," Mr. Wendenburg read on. "Who is Irma?"

"Mrs. Cobb. She lived in the same house with Beulah."

"Who would get wise?"

"Well, I didn't want my people to know I was running with another girl."

"With oceans of love," pursued Mr. Wendenburg. "What did that mean?"

"I didn't mean anything. I have sent messages like that to lots of women."

"Brimming with kisses." Did you kiss her when you left her?"

"Yes."

"So you treated her in that way the same as you treated your wife?"

"No, I don't think it is necessary to make any comparisons," said Judge Watson.

"Well, anyway," said Mr. Wendenburg, "the fact is that on July 14 of this year, four days before your wife's death, you were preparing to make a home for Beulah Binford."

"I told her I would help her. Her sister and brother-in-law would not let her live there any longer?"

"Didn't they tell you it was a shame—your being a married man—to come that way after her?"

"Yes, her sister wouldn't walk down Broad Street with her. She expected her to stay only on a short visit."

"You once took Beulah Binford and her sister in your car to visit an uncle?"

"Yes, but that was at night."

**Delivery of Gun.**

"It is in evidence here," said Mr. Wendenburg, "that on the Saturday night preceding the homicide, about 10:15 o'clock, this gun was delivered to Paul Beattie. It is also in evidence that that time is in confusion. If your store closed at 10 o'clock and you took Paul to Richmond with you and delivered Paul at his home, as you have described, how could that gun be delivered to Paul in Weinsteins' pawnshop at 10:15 unless you knew of it?"

"It wasn't delivered to Paul on Saturday night—that is, not while he was with me."

"Now you have told us that when the store closed you brought Paul to Richmond in your car. You say you got out three times to fix the lights before you got to Grace Street. How long did that take?"

"I took about ten minutes to get from the store to Sixth and Grace."

"And you stopped at Fourth and Franklin Streets to change the lights. How long did that take?"

"About five minutes."

"You told Mr. Smith this morning that you went to make it less than five or ten minutes."

"I don't know; it may have taken five or ten minutes."

"How long did it take you to get to Paul's house from there?"

"When did you get to Paul's house?"

"I don't remember. It must have been about a quarter before 11 o'clock."

**Paid for Phone Call.**

"When Billy Sampson called Beulah Binford on long distance from your store, didn't you talk to Beulah?"

"I hollered something over the phone to her."

"Did you pay the long distance toll charges?"

"Yes."

"Didn't you go over to the telephone office and pay for the call so that it wouldn't appear on your bill?"

"So they wouldn't know you and Sampson had talked with her?"

"Yes."

"You were preparing to go to Norfolk?"

"Beulah's doctor bill was charged to you?"

"Yes."

"Why should you pay such a bill?"

"She asked me if I would pay it. The doctor had told her that otherwise she would have to go to the hospital at the almshouse, so I told her I would pay the bill."

"You left your garage at what time on the night of the murder?"

"I left the house about 8 o'clock. I got the machine out after I had pumped up the tires and dusted it off."

"Will you deny that you went out of your garage that night in your car at a quarter before 8 o'clock?"

"You went on out Semmes Avenue to Dundee and then into Park Street?"

"Yes, I took the centre road from

Dundee straight across on the Middlethorpe Pike.

**When He Felt Like It.**

"What was your usual time for getting to the Owen place?"

"Whenever I felt like going; I had no certain time."

"Did your wife expect you that night?"

"Yes."

"To take her out?"

"She knew I was coming in my car."

"What time did you arrive at Mr. Tom Owen's place?"

"I don't know. I thought it was about 9 o'clock."

"You left there when?"

"A little after 10 o'clock—possibly 10:15."

"You went down the pike to the drug store in Swansboro?"

"Yes."

"You left there what time?"

"I don't know."

"What time did you reach the Owen place?"

"It would be nothing but a guess if I were to say. I don't know at what time I was running."

"If you left the drug store at 10:27, as one of your witnesses has testified, what time would you pass the entrance to Tom Owen's place going out?"

"In a few moments."

"Do you deny saying that you hadn't intended going on up the road until she mentioned it—if you said that was it true?"

"I don't remember."

"Then if your wife had not made this unfortunate suggestion this murder would not have happened?"

"I don't remember ever saying it. When did I say I didn't intend going on up the pike if she hadn't mentioned it?"

"I'm positive I didn't say it. The prescription wasn't urgent, and we didn't need to hurry back."

**May Refer to Notes Later.**

"Do you deny having said that you did not intend going on until your wife suggested it?"

"If I said it, it was true. I don't know that I had made up my mind about it when she mentioned it."

A question arose as to whether the witness had not stated in the morning that he had gone on at his wife's suggestion. Stenographer Winston, who had taken the morning evidence, had gone with his notes. "If my notes are not correct I will give you the benefit," said Mr. Wendenburg.

"It is in evidence here," went on Mr. Wendenburg, "that the place you turned around that night is the high point on the whole road; it is called the Look. Why did you turn there?"

"I didn't select any particular point save some place where there was a gate I could lock in to turn."

"Why did you pick the highest point where you could see for miles both ways, enabling you to see the lights of every car on the road?"

"I didn't pick it. I didn't know it was the highest point. I just turned there."

"When you started back from the point where you turned, did you see any cars?"

"I didn't see any cars at all after the three cars going out."

"Coming back, you passed Ritter's store where the pump and tub are?"

"I thought there were pumps at both stores."

"Ritter's store is about a mile west of the scene of the homicide?"

"I reckon it is."

"The next store is about one-third of a mile from the scene?"

"About that, I reckon."

**How Far He Could See.**

"At the scene of the homicide, were your front lights burning?"

"Yes."

"How far can you see with them?"

"I could see a buggy a half a square away."

"Couldn't you see a man's hat or a dog in the road 150 feet off?"

"You might notice a dog 100 feet away. A man doesn't strain his eyes unless he is driving very rapidly."

"How far off can you see a man with those lamps?"

"If you were looking for him in the centre of the road, about 150 feet."

"It is in evidence here that you saw this man in front of you and stopped your car suddenly. Why couldn't you see this man 150 feet off?"

"I was not paying any particular attention. I was talking with my wife."

"When you are running a car don't you keep a very close eye on the road for glass or rocks?"

"I never looked for glass in my life. Of course, if I were on a strange road it would be different, but on a road

you are familiar with you can run almost with your eyes shut."

**Did Not Leave Pike.**

"From the time this prescription was filled until you returned with the body did you leave the turnpike?"

"No, sir."

"This man you describe in order to get in front of you had to walk one-half of the width of the road?"

"Did you see the man get exactly in the centre?"

"The road measures twenty-seven feet wide, and you say you were running in the centre. Then the man had to walk eleven feet six inches before he even got in front of your wheel on that side."

"If that measurement is right, he would not know whether he was doing, I don't even know whether he was on the edge of the road."

"How could you have helped seeing a man walking that far into the road?"

"I wasn't looking for any one coming from the side. I wasn't paying particular attention. People do get run over even in the day time, you know."

"Where did he have his gun hid?"

"I don't know. The first time I noticed the gun was when he pointed it at me."

"This man you tell of didn't have any gun when the car stopped?"

"I suppose he had."

"Didn't he get that gun from behind a stump?"

"I don't know."

**When He First Saw Gun.**

"There was no gun in sight when you stopped the car?"

"I didn't see it until he raised it and pointed it at me."

"What possible reason could that man have for murdering you or your wife?"

"I know of none. He may have been trying to scare me. He might have been drunk or looking for a fuss."

"Haven't you swerved out into the road?"

"No."

"Did he stagger?"

"I don't deny having said that he did, but I didn't mean to convey the idea that he was drunk."

"Well, whatever you said, did he stagger?"

"I say now as I said before. Because I said he staggered, I don't necessarily mean he was drunk."

"Did this man have any possible motive for taking your life or that of your wife?"

"No."

"There was no provocation given?"

"No, unless he had attempted to cross the road and I had scared him."

"How far off was he when you saw him?"

"It would be a mere guess, probably fifteen feet."

**Might Have Struck Him.**

"Would you have struck him if you hadn't stopped?"

"If he had attempted to cross and I didn't stop I'd have hit him."

"Yes, if he was right in the middle of the road you had 12-12 feet to the right to pass him."

"If he was fifteen feet in front of you and you had 12-12 feet clearance, is it your practice to stop on the roads for such obstructions? Do you do that when you pass people on the streets?"

"No, hadn't stopped and had hit him I'd have been in some jail now because I hadn't stopped."

"Don't you know you are here now because you did stop?"

"I protest," said Mr. Carter.

"In how many feet can you stop your car?"

"I don't know. It would depend on how fast it was going."

"If you were running from fifteen to twenty miles an hour, what is the shortest space in which you can stop?"

"I must have run from where I was right up to the man. I could demonstrate better in the car itself. I never measured the distance in which I could come to a full stop. There was pro-

longed cross-questioning as to how far it would take to stop the car going first at fifteen and then at twenty miles an hour.

**Had Face Full of Beer.**

"If this man you describe was only fifteen feet off, in the centre of the road with the lights full on him, why cannot you tell whether he is white or colored?"

"Well, if a man had a face full of beard I wasn't capable of telling."

"You determined that he must be a white man after Dr. Mann remarked that colored men didn't usually have beards?"

"No, sir. I said from his voice, I thought it was a white man. What Dr. Mann said made me think so much more. I have said all along I thought it was a white man."

"If you hadn't stopped your car would you have hit this man?"

"As it afterwards turned out I would not."

"How far was he to the left of the car when you did stop?"

"I could not say whether it was one, two or four feet."

"If that your best estimate?"

"Any of them would be a guess."

"You could have gone on by without striking him?"

"Yes, when I saw him on the side of the machine I reached down to start the car again. I didn't know he was on the side of the machine until he spoke. He must have jumped back out of the way."

"Did you see him move back?"

"He must have gotten out of the way—jumped or run."

"He must have been six feet away?"

"Yes."

"Then there was no reason for your stopping at all?"

"He wasn't six feet from me. When I first saw him he was just to one side."

"Did you see him jump back?"

"I didn't see him. I don't know whether he jumped there, ran there or somebody pulled him there."

"You don't really mean that somebody might have pulled him there?"

"Of course not."

**Wife Said Nothing.**

"What did your wife say when this highwayman appeared?"

"She didn't say anything. She had confidence in me to let me handle the situation."

"She went to her death in silence?"

"Yes."

"Was she looking at him?"

"I don't know."

"From the appearance of the wound in the face she must have been looking at the man pointing the gun?"

"She must have."

"And if she was looking at a man pointing a gun at her, do you mean to tell this jury that she didn't scream?"

"The gun wasn't pointed at her. I was reaching over for the brakes. The jerk of the car as it started put her in line."

"He raised the gun and fired at your wife?"

"He merely raised it and fired. I think he meant to scare us. He didn't mean to shoot anybody."

"What reason would this assassin have for raising a gun when it was aimed at you?"

"That's what I said. He raised it to shoot over my head and the jerk of the car brought my wife in line."

"What did the assassin say after he had fired the gun?"

"He said 'anything'."

"What did he do?"

"He hit me with the gun."

"Did he attempt to load it again?"

"I didn't see him."

"How much do you weigh?"

"One hundred and thirty-five pounds."

"How tall are you?"

"Five feet nine inches."

"You went up to this large, powerful man—you went after this giant for what purpose?"

"As any man would go after another who had shot his wife."

"To go what?"

**Wanted to Fight Him.**

"To fight—to get at him."

"Well, what happened?"

"He hit me with the stock of the gun and I jerked it from him as I fell."

"Then you thought about your wife?"

"Yes, on the spur of the moment I had jumped out after the man."

"After the man or after the gun?"

"After the man. But after you had disarmed this man who had just murdered your wife you let him go?"

"I thought of my wife then and went back to her."

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